

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR KING COUNTY
SPECIAL MEETING AND PUBLIC HEARING MINUTES
CITY OF RENTON
CITY OF FAIRWOOD INCORPORATION FILE NO. 2194
MAY 8, 2006

**Nelsen Middle School
Renton, Washington**

The following Minutes are a summary of the Special Meeting for a Notice of Intention proposing the incorporation of a new City of Fairwood (File No. 2194). Complete written transcripts are available from the Boundary Review Board.

I. CALL TO ORDER

Charles Booth, Chair, convened the meeting of May 8, 2006 at 9:00 P.M.

II. ROLL CALL

The following members were present at the Special Meeting:

Evangeline Anderson	Robert Cook
A.J. Culver	Lynn Guttman
Ethel Hanis	Claudia Hirschey
Roger Loschen	Michael Marchand
Judy Tessandore	

III. DELIBERATION AND DIRECTION

INTRODUCTION:

Chair Booth stated that the purpose of the Special Meeting is to deliberate and come to a preliminary decision for the Notice of Intention incorporation of a new City of Fairwood (File No. 2194).

The Boundary Review Board is charged with the task of providing independent review and decision-making with respect to applications for municipal incorporations. Chair Booth described the standards for a quasi-judicial Special Meeting and the scope of the Special Meeting.

Chair Booth and Lenora Blauman described the proposed incorporation as follows:

In November of 2004, the Fairwood Community Task Force, the proponent, filed a Notice of Intention with the Boundary Review Board to incorporate a new City of Fairwood. The Fairwood Task Force is proposing to incorporate 4500 acres of land generally located in southeast King County. As required by RCW 35.02, the application for incorporation was based upon a petition signed by more than 2600 citizens, representing at least 10% of the registered voters within the boundaries of the proposed new City.

As required by RCW 35.02 and RCW 36.93, the Board conducted the public hearing process for the proposed incorporation of a new City of Fairwood on March 27, March 29, and March 30, 2006.

At the conclusion of the March 30, 2006 public hearing, the Boundary Review Board closed the record for File No. 2194 to oral testimony. The record was maintained open for written documents until April 7, 2006. Materials were provided by Berk and Associates, by representatives of the Fairwood Task Force, and by various citizens groups. Those materials are included in the packet provided to the Boundary Review Board on April 27, 2006.

The Boundary Review Board must now determine whether the record for File No. 2194, in its entirety, includes sufficient information to permit the Boundary Review Board to conduct a Special Meeting to deliberate and come to a decision in this matter. Alternatively, the Board may hold open the record for further documentation.

Action: Evangeline Anderson moved and A.J. Culver seconded a motion to close the Public Hearing for File No. 2194. The motion was passed by a vote of nine in favor and one abstention (Judy Tessandore).

Chair Booth and Mrs. Blauman described the Special Meeting as follows:

The Boundary Review Board is conducting this Special Meeting in keeping with its statutory mandate (Chapter 36.93 RCW, *et seq.*) in order to deliberate and make a decision with respect to the proposed incorporation of a new City of Fairwood.

As prescribed by RCW 36.93, the Board may make a **decision** to approve the incorporation of a new City of Fairwood as proposed by the Fairwood Task Force. Or the Board may make a **decision** to approve an incorporation of a new City of Fairwood with modifications to corporate boundaries. Or the Board may make a **recommendation** to deny the proposed incorporation of the new City of Fairwood.

At the conclusion of the deliberation and preliminary decision-making for this Notice of Intention, the Boundary Review Board will direct staff to prepare a Resolution and Hearing Decision. Staff will present the Hearing Decision and Resolution Report to the Boundary Review Board.

The Board will review and vote upon the Resolution at a Regular Meeting of the Board. That meeting is tentatively scheduled for June 8, 2006.

Following adoption of the Resolution and Hearing decision, there is a 30 day appeal period of the Board's decision to King County Superior Court.

RCW 35.02 requires an election to permit the registered voters to determine whether they wish to incorporate as a new city. This election is permitted whether the Board makes a decision to approve the incorporation or recommends against the incorporation.

If the Board has approved the incorporation with the initially proposed boundaries, then the voters may only consider an incorporation including those boundaries prescribed by the Board. If the Board has approved incorporation with modified boundaries, the voters may only consider an incorporation as modified by the Board. If the Board recommends against the incorporation, the citizens may, nonetheless, vote to incorporate those lands initially proposed by the Task Force for incorporation as a new City of Fairwood.

The Fairwood Task Force may also decline to conduct an election. In such event, the area will remain in unincorporated King County.

Under state law, an election can take place no earlier than 61 days following the final decision by the Boundary Review Board.

DISCUSSION:

Chair Booth called for the Boundary Review Board to begin discussion in the matter of File 2194.

The Board members began by defining the following proposed boundaries for the City of Fairwood (based upon technical corrections) to:

- Include the International Foursquare Gospel Church property and Pierotti properties defined at the Public Hearing of March 27 – 30, 2006.
- Incorporate the entirety of 128th Avenue (where that right-of-way is immediately contiguous to proposed city boundaries) into the new City of Fairwood.

The Board then addressed the matter of the City of Renton proposal to annex portions of the Maplewood Addition Area which are also included within the proposed boundaries for a new City of Fairwood.

Action: A.J. Culver moved and Ethel Hanis seconded a motion to preliminarily exclude Maplewood Addition Area (Option 2 at 346 acres) from the boundaries of the proposed City of Fairwood. The motion was adopted by a vote of nine in favor and one abstention (Judy Tessandore).

The Board then addressed the matter of the area described as Renton Park (Option 1 and Option 2) which are also included within the proposed boundaries for a new City of Fairwood. Renton Park (Option 1 and Option 2) have been requested to be removed from the proposed new City of Fairwood by Renton Park Residents, Benson Hill Community Group, and Cascade-Spring Glen Citizens.

Action: Claudia Hirschey moved and Ethel Hanis seconded a motion to preliminarily exclude Renton Park (Option 1) from the boundaries of the proposed City of Fairwood. The motion was adopted by a vote of nine in favor and one abstention (Judy Tessandore).

The Board then began discussion of the incorporation of the proposed new City of Fairwood. A summary of the Board members' statements with respect to this motion is provided as follows:

Ethel Hanis moved and Claudia Hirschey seconded a motion that the Boundary Review Board recommends denial of the proposed incorporation of the Fairwood Area as described in File No. 2194 and that as a part of that motion the area known as:

- Renton Park Version 1 be deleted from the boundaries of the proposed new City; and
- Maplewood Annexation Expansion, Option 2 be deleted from the boundaries of the proposed new City; and
- the International Foursquare Gospel Church property and Pierotti properties be included in the boundaries of the proposed new City; and
- The entirety of any portion of 128th Avenue SE that is immediately adjacent to the proposed new City of Fairwood be included in the City boundaries.

Boundary Review Board members offered the following general comments relating to the proposed incorporation:

- The Boundary Review Board is required to base its decision on statutory mandates including, but not limited to, RCW 36.93, Sections 170 (Factors) and 180 (Objectives). the State Growth Management Act (RCW 36.70A). The Board must also consider the King County Comprehensive Plan and other regional standards.
- Utilizing the entirety of the regulatory framework established for the Board, the members have reviewed the basic Notice of Intention; the Fiscal Feasibility Analysis prepared by Berk & Associates; documents/exhibits provided by government officials, technical experts, and citizen stakeholders; exhibits; and public testimony.

Boundary Review Board members offered the following general comments in support of the motion:

- Based upon the record for File No. 2194, in its entirety, the proposed incorporation appears to be unlikely to achieve the requirements for a viable, vibrant government either at its inception or as it would be expected to grow in the future. The record clearly confirms that the community is close to build-out in housing development and commercial development, yet income derived from new development is reported to be the basis for much of the projected revenue for the City of Fairwood.

The record confirms that, in the absence of significant new development, a new city would very likely continually struggle to acquire the funding necessary to support basic required

and/or expected land use planning, housing, public services, public facilities, and public amenities for community members.

Obligation of existing residents to provide new sources of income and/or reliance upon future income from uncertain sources creates uncertainty for the health of the community. History demonstrates that, for new cities, actual funding requirements customarily exceed the projected funding requirements. Fairwood would be incorporated with a minimal funding base. Boundary Review Board criteria do not support the creation of government units that possess insufficient (or marginal) resources to govern and serve the citizens.

An incorporation would, therefore, be inconsistent with RCW 36.93.170 and RCW 36.93.180 (e.g., Objective 1, Objective 3, Objective 7).

An incorporation would also be inconsistent in part with RCW 36.93.180 Objective 5, which discourages multiple incorporations. While the new city could be supported in terms of population numbers, the creation of a new city which is insufficiently funded may well lead to a plethora of problems – including those which require boundary changes – which do not meet the intent of RCW 36.93.

- The State Growth Management Act supports local governments for urban areas. However, the Growth Management Act intends that reliable, stable local governments be provided for citizens. The Growth Management Act clearly supports annexation to existing viable cities over the creation of a new city that is unlikely to be able to govern and serve a community. The proposed incorporation is inconsistent with the policies of the Growth Management Act.
- Similarly, the King County Comprehensive Plan/Countywide Planning Policies and the King County Annexation Initiative clearly support annexation rather than incorporation where there is a viable local government prepared to govern and serve a community. These plans and policies are clearly aimed at annexing urban unincorporated areas to existing cities.

An incorporation would, therefore, be inconsistent with RCW 36.93.170 and RCW 36.93.180 (e.g., Objective 1, Objective 3, Objective 5, Objective 7, Objective 8).

- The City of Renton Comprehensive Plan (including the Fairwood Potential Annexation Area), approved by the State of Washington and King County, anticipates the annexation of the Fairwood community.

The proposed city adversely affects the approved Comprehensive Plans of the City of Renton. By division of an area designated for annexation to the City of Renton, an incorporation would adversely affect the preservation of natural neighborhoods or the creation and preservation of logical service areas.

Division of the area reduces the effectiveness of the government and interferes with efficient services to the local community. Further, this fragmentation will have an adverse economic effect upon the citizens of Fairwood, the citizens of the remaining Renton Potential Annexation Area, and citizens of the greater community.

Local economic failures can become a problem for citizens of the State of Washington, as recent matters before the Legislature indicate that problems of small, underfinanced cities create a need for subsidies from taxes paid by all citizens of the State.

An incorporation would, therefore, be inconsistent with RCW 36.93.170 and RCW 36.93.180 (e.g., Objective 1, Objective 3, Objective 5, Objective 7, Objective 8).

- In considering whether the proposed incorporation is consistent with RCW 36.93.170 (2) and RCW 36.93.180 (3), it is reportedly noteworthy that King County (e.g., King County Fire Protection Districts King County Water District No. 90), various regional districts (e.g., Soos Creek Water & Sewer District; Cedar River Water & Sewer District), and the City of Renton have been addressing this community's need for municipal services.

Under King County policies, services in this area are likely to be cut in the foreseeable future. It is unlikely that a new City of Fairwood could provide basic – or equivalent – services with available resources.

Boundary Review Board members offered the following comments in opposition to the motion:

- The Board should not encourage incorporation of a city where the record demonstrates a certain failure or a high likelihood of failure. The record does confirm that a new City of Fairwood would have a limited funding base. However, the city's fiscal resources could be sufficient to govern and serve at levels that do not imperil public welfare.
- The democratic process supports the right of the citizens to decide – by vote – their future affiliation with a local community – a new City of Fairwood or the City of Renton.
- The Berk & Associates Fiscal Feasibility Analysis and the Boundary Review Board records are available to provide information to the citizen voters from the area. The Boundary Review Board decision/recommendation should provide guidance to the voters as well.

Boundary Review Board members offered the following comments concerning the motion:

- A majority of the Boundary Review members find that the proposed incorporation is inconsistent with RCW 36.93.180 (Objective 1) – Preservation of Natural Neighborhoods and Communities;
- A majority of the Boundary Review members find that the proposed incorporation is inconsistent, in part, with RCW 36.93.180 (Objective 2) - Use of physical boundaries (e.g., bodies of water, highways, land contours);
- A majority of the Boundary Review members find that the proposed incorporation is inconsistent with RCW 36.93.180 (Objective 3) – Creation of logical services areas;
- A majority of the Boundary Review members find that the proposed incorporation is inconsistent with RCW 36.93.180 (Objective 4) – Prevention of abnormally irregular boundaries
- A majority of the Boundary Review members find that the proposed incorporation is inconsistent with RCW 36.93.180 (Objective 5) – Discouragement of multiple incorporations;
- A majority of the Boundary Review members find that the proposed incorporation is inconsistent with RCW 36.93.180 (Objective 7) – Adjustment of impractical boundaries;
- A majority of the Boundary Review members find that the proposed incorporation is inconsistent with RCW 36.93.180 (Objective 8) – Incorporation/Annexation of lands that are urban in character.

At the conclusion of the discussion, Chair Booth called for the question to come to a vote.

PRELIMINARY DECISION

ACTION: Ethel Hanis moved and Michael Marchand seconded a motion that the Boundary Review Board directs staff to prepare a preliminary Hearing and Decision Report recommending denial of the proposed incorporation of the Fairwood Area as described in File No. 2194 and that as a part of that motion the following modifications shall occur:

- Renton Park Version 1 be deleted from the boundaries of the proposed new City pursuant to RCW 36.93.150; and
- Maplewood Addition Area (Expansion, Option 2) be deleted from the boundaries of the proposed new City pursuant to RCW 36.93.116 and RCW 36.93.150; and
- the International Foursquare Gospel Church property and Pierotti properties be included in the boundaries of the proposed new City pursuant to RCW 36.93.150; and
- The entirety of any portion of 128th Avenue SE that is immediately adjacent to the proposed incorporation area be included in the boundaries of the City of Fairwood pursuant to RCW 36.93.150.

The Board adopted the motion in the matter of File No. 2194 by a vote of six in favor and three in opposition. Supporting the motion were: Evangeline Anderson, Lynn Guttmann, Ethel Hanis, Claudia Hirschey, Roger Loschen, and Michael Marchand. Opposing the motion were: Charles Booth, Robert Cook, and A.J. Culver. Judy Tessandore abstained as she did not attend the public hearings in this matter.

The Boundary Review Board shall hold a Regular Meeting for the sole purpose of coming to a final decision in the matter of File No. 2194. This Regular Meeting shall take place on Thursday, June 8, 2006 at 7:00 P.M.

The Boundary Review Board members stated their respect and appreciation for the efforts of the Fairwood Task Force. In the event that the incorporation of a new city goes forward, the Board extends its wishes for the success of the new community. In the event that the incorporation is not successful, then the Board encourages the citizens to work actively with the City of Renton to build a community that reflects the interests of all of the citizens of the area.

IV. ADJOURNMENT

ACTION: Robert Cook moved and Lynn Guttmann seconded a motion that the Boundary Review Board adjourn the May 8, 2006 Special Meeting in the matter of the proposed incorporation of a new City of Fairwood.

The motion passed by unanimous vote. The motion passed by unanimous vote. Chair Booth adjourned the meeting at 10:05 P.M.